



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 16, 1994

Ms. Christine Rodriguez  
Staff Attorney  
Legal Services, 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR94-074

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.<sup>1</sup> Your request was assigned ID# 21143.

The Texas Department of Insurance (the "department") has received a request for certain information in its possession. Specifically, the requestor seeks "all of the available documents regarding an investigation and hearing conducted by the Texas State Board of Insurance regarding Mr. [Fernando] Castro's license and renewal application as an agent for Ohio Life Insurance Company, as well as any other information regarding Mr. Castro and the Board." You advise us that some of the requested information has been made available to the requestor. You object, however, to release of the remaining information, which you have submitted to us for review, and claim that it is excepted from required public disclosure by sections 552.107 and 552.111 of the Government Code.

In Open Records Decision No. 574 (1990), this office held that the protection of section 552.107 was limited to information that revealed client confidences to an attorney or that revealed the attorney's legal advice. Information that does not contain legal advice or opinion or purely factual information that does not reveal client confidences is not protected by section 552.107. *Id.*

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<sup>1</sup>We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

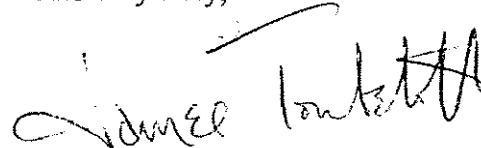
You seek to protect a number of documents titled "Investigator Case Notes." On their face, these documents do not appear to contain an attorney's legal advice, nor do they appear to reveal a client's confidences to an attorney. Moreover, you have not explained that these documents contain legal advice or opinion or, if released, would reveal client confidences. If a governmental body does not assert an exception or does not explain how an exception relates to particular information, this office has no basis on which to conclude that the information is excepted from required public disclosure. *See* Open Records Decision No. 363 (1983). We conclude, therefore, that these documents may not be withheld from required public disclosure under section 552.107 of the Government Code.

You also claim that some of the information submitted to us for review is excepted from required public disclosure by section 552.111, which excepts information that constitutes an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993) (copy enclosed), this office reexamined the section 552.111 exception and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5-6. Section 552.111 does not except purely factual information from disclosure. *Id.* at 5.

The documents submitted to us for review contain some advice, recommendations, and opinions reflecting the department's policymaking functions, but appear to contain mostly factual information. We have marked the information that may be withheld under section 552.111 of the Government Code; the remaining information, however, must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "James E. Tourtelott", with a stylized flourish at the end.

James E. Tourtelott  
Assistant Attorney General  
Open Government Section

JET/GCK/rho

Ref.: ID# 21143  
ID# 21336  
ID# 21471  
ID# 22128  
ID# 22789

Enclosures: Open Records Decision No. 615  
Marked documents

cc: Mr. Marshall Coe  
Beckmann, Quirk & Fulton  
1020 N.E. Loop 410 Suite 450  
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(w/o enclosures)